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Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture

Concluding observations on the combined fifth and sixth periodic reports of Portugal

Addendum

Comments received from Portugal on the concluding observations*

[13 December 2013]

1. Portugal would like to reiterate that it fully supports and respects the independence and expertise of the UN Human Rights Treaty Bodies. Portugal is deeply committed to respecting its reporting obligations.

2. Furthermore, Portugal attaches the utmost importance to having fully interactive discussions with the relevant UN Treaty bodies on its national implementation. In spite of the current budgetary restraints, over the last two years Portugal has systematically sent National delegations with a significant number of experts from the relevant line Ministries in order to provide thorough national responses; thereby contributing to a constructive dialogue.

3. Likewise, Portugal expects the UN Treaty Bodies to engage with the State Delegation in a similarly open and interactive manner, fully granting national experts the opportunity to answer questions made by the Committee members. Portugal also expects that the information provided in writing by the State is fully taken into consideration by the Treaty Bodies when preparing the concluding observations. It is Portugal's firm belief that, in order to be fully effective, the UN Treaty Bodies' concluding observations must take into account both information provided by the State and information provided by other relevant stakeholders (NGOs, other international organizations, National Human Rights Institutions).

4. Portugal attaches the utmost importance to the implementation of recommendations received from the UN Human Rights Treaty Bodies.

* The present document is being issued without formal editing.

5. Portugal would like to make the following comments to the concluding observations on its combined 5th and 6th periodic report, in particular to para 13 on rendition flights.

6. Portugal is well aware that "the transfer and refoulement of persons, when there are substantial grounds for believing that these persons would be at risk of being subjected to torture, is in itself a violation of article 3 of the Convention".

7. Portugal denies any involvement in the renditions flight program and never authorized the use of its territory or of its airspace for that purpose.

8. Furthermore, Portugal never received any request for authorizing the use of its territory or airspace for the transport of detainees in the framework of that program. and the US gave its assurance that in this matter their authorities have not violated Portuguese sovereignty, existent bilateral agreements nor the applicable international law.

9. In spite of the fact that it was never asked for the use of its territory or air space by rendition flights — and would in any case have refused such permission — because of the critical importance it attributes to this matter, Portugal has conducted thorough internal investigations and cooperated fully with the inquiries on this matter undertaken at international level.

10. In 2006, Portugal provided the information requested in the framework of the two inquiries conducted by both the Secretary General of the Council of Europe and the European Parliament.

11. In 2007, the Portuguese Government asked the General Attorney's Office, an independent judicial body, to conduct its own investigation on this matter. This investigation concluded that there was no evidence of the involvement of the Portuguese Government in these activities.

12. In October 2013, Portugal replied to the joint letter from Vice-President of the European Commission Viviane Reding and European Commissioner for Home Affairs Cecilia Malmström on the recommendations included in the European Parliament's resolution on the alleged transportation and illegal detention of prisoners in European countries by the CIA, adopted in September 2012.

13. It should be underscored that, following this reply, the European Parliament's last resolution on the same matter, adopted on 10th October 2013, does not mention Portugal.

14. Furthermore, Portugal has also cooperated and replied to information requests from the civil society, in full respect of national law on access to administrative documents. In this context, we have given access to the documentation requested in 2012 by the NGO Acces Info Europe regarding this same matter.

15. Taking into consideration the above, Portugal fails to apprehend how further investigations could shed more light on its involvement in a rendition program in which it had no involvement. As a democratic country respectful of the rule of law and the separation of powers, Portugal also fails to understand the Committee's disqualification of the results of an investigation that, in a spirit of total transparency, the Portuguese government asked an independent judicial body like the Attorney General's Office to undertake. In this case it seems that the Committee gives more credence to allegations (vd last sentence of first para in point 13) than to criminal investigations by independent bodies.